

# EXHIBIT D

3/22/2019

Hello,

I am making this request under the Freedom Of Information Act ("FOIA"), 5 U.S.C. § 552. Please provide the following records maintained by your agency or for your agency by a government contractor:

- Appendix C: "Expanded Guidance for Submitting Segregation Notifications" from OIG-17-119, "ICE Field Offices Need to Improve Compliance with Oversight Requirements for Segregation of Detainees with Mental Health Conditions," available online [here](#).

The records should be provided to the Project On Government Oversight (POGO) in electronic format (e.g. PDFs, PST, spreadsheets) via email. If electronic form is not possible due to a specific reason, we request a hard copy format.

I request a waiver of all costs associated with fulfilling this submission pursuant to 5 U.S.C. § 552(a)(4)(A)(iii). Disclosure of the requested records will further the "public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest" of the requester, POGO. Specifically, POGO intends to use the requested records to increase public understanding of the treatment of immigrant detainees. If the request for a fee waiver is denied, please contact me about any incurred expenses prior to supplying the requested records.

I request that the agency provide the information and documents on a rolling basis.

Set forth below is a detailed account of POGO's planned use of the requested records that fully responds to the fee waiver criteria governed by 5 U.S.C. § 552(a)(4)(A)(iii).

**1. The subject of the request: Whether the subject of the requested records concerns "the operations or activities of the government."**

POGO is requesting records which will inform the public about how ICE agents are advised to track instances where a detained person is placed in segregation. We believe this information will allow the public to better judge the veracity of other records already released via FOIA and provide insights that will allow us to better inform the public about the integrity and efficacy of this program.

**2. The informative value of the information to be disclosed: Whether the disclosure is “likely to contribute” to an understanding of government operations or activities.**

The information to be disclosed will likely contribute to an increased public understanding of Department of Homeland Security policies regarding the use of segregation for detained persons. Given increased number of persons detained in recent years, the public has a vested interest in knowing how the civil liberties of those people are being respected as the government carries out detentions and deportations on behalf of the public. These documents will also contribute to a better understanding of how ICE agents are advised to carry out their duties with special regard to segregation, a pressing civil liberties issue that directly related to the safety and well-being of people in their custody. Moreover, if released, the information will greatly inform the public about the government’s interpretation of its commitments to preserving humane treatment of those going through the detainment or deportation system.

**3. The contribution to an understanding by the general public of the subject likely to result from the disclosure, taking into account your ability and intent to disseminate the information to the public in a form that can further understanding of the subject matter.**

POGO investigates, exposes, and seeks to remedy systemic abuses of power and mismanagement in the federal government. Founded in 1981, POGO is a politically independent, nonprofit watchdog that promotes a government that is accountable to the citizenry. POGO disseminates information about its activities to the public, policymakers, and the media via email, direct mail, and its websites which receive nearly 70,000 unique visitors each month. The records provided by your agency will be used for the following activities, which are publicly available: publication by email and on POGO websites; publication in reports and newsletters issued by POGO; publication in the newsletters of affiliated nonprofit organizations; efforts to educate Congress, the Executive Branch, and other policymakers; or in conjunction with the news media.

**4. The significance of the contribution to public understanding: Whether the disclosure is likely to contribute “significantly” to public understanding of government operations or activities.**

Disclosure of the records is likely to contribute significantly to the public’s understanding of the challenges of how the government approaches use of segregation in the context of immigrant detainees. All of POGO’s investigations are available for free to the public on our website, our primary vehicle for disseminating information to the public. This information is valuable to both the public and policymakers, since this program affects the lives of citizen family members of detainees and the security of local communities.

**5. Whether disclosure of the information is not primarily in the commercial interest of the POGO.**

POGO holds no commercial or financial interest in the requested information. As discussed above, the information will be used strictly for the public interest. We do not charge for access to information posted on our website, or for reports, newsletters, and other printed materials.

Please note that the FOIA Improvement Act of 2016 codified the presumption of openness and requires agencies to only withhold information if “the agency reasonably foresees that disclosure would harm an interest protected by an exemption.” However, there is no specific foreseeable harm associated with the requested records, given the that previous versions of this guidance have already been released. The accountability and oversight that will result from disclosure of the requested records is a benefit for both the agency and the public. Therefore we do not believe that any of the records should be withheld.

If any of these requests are denied, in full or in part, please cite the exemption(s) pursuant to 5 U.S.C. § 552(b) that justify each denial. If an exemption applies, however, please consider exercising the agency’s discretionary release powers to disclose the information. Additionally, please release all reasonably segregable portions of the information that do not meet an exemption.

I look forward to your response within 20 days of the receipt of this request, unless, in the case of “unusual circumstances,” the time limitation is “extended by written notice.” We are aware that we have a right to appeal this request if it is wholly or partially denied or if the agency fails to respond within 20 days. We are aware that, if successful, a federal district court may assess “reasonable attorney fees and other litigation costs” per 5 U.S.C. § 552(a)(4)(E).

Please contact me if this request requires further clarification. I can be reached at 785-410-4421, or via e-mail at [apeterson@pogo.org](mailto:apeterson@pogo.org). Thank you for your prompt attention to this matter.

Sincerely,

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